

### **REMARKS**

This is in response to the Office Action (non-final) mailed November 19, 2004. Claims 50-66 were pending. All of these claims had been rejected by the Examiner. Claims 50, 52, 61 and 63 have been amended. Claims 51, 62 and 66 have been canceled without prejudice. Claims 50, 52-61, and 63-65 are now pending. In view of the Arguments appearing below, Applicants respectfully requests reconsideration and removal of the rejection of all of the pending and now Amended Claims.

The Examiner has provisionally rejected claims 50-66 under the judicially-created doctrine of obvious type double patenting over U.S. Patent No. 6,324,581 assigned to EMC the same assignee as the present pending application. Applicants have filed a terminal disclaimer in compliance with 37 CFR and in accordance with the Examiner's instructions to overcome this rejection. Accordingly, Applicants respectfully request reconsideration and removal of this rejection.

The Examiner has also provisionally rejected Claims 50-66 under the judicially-created doctrine of obvious type double patenting over Claims 8-18 of co-pending Application No. 09/261,621 ('621 application) assigned to EMC the same assignee as the present pending application. The Examiner is respectfully asked to hold this rejection in abeyance because Claims 50-66 of the present Application have all been amended and it is not settled how Claims 8-18 of the '621 application will be specified when allowed. Accordingly, Applicants respectfully request reconsideration and either removal of the rejection in view of the

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amendments to the present application or holding this rejection in abeyance for the reasons given above.

The Examiner has rejected Claims 50, 53, 54, 61, 64, and 65 under 35 USC 103(a) for obviousness over U.S. Patent 6,289,345 to Yasue in view of US Patent 6,088,694 to Burns et al. (Burns). Applicants' invention is directed to either a method or program product for accessing data stored in a data storage location in a data storage device wherein the data comprises at least a portion of a file for which a server provides metadata and a lock to a client requesting the data such that the client may directly use the metadata and lock to access the data from the data storage device. Yasue in contrast is directed to a data information system for 2D/3D model data, but does not include the specific capabilities of Applicants' invention, and particularly does not allow direct access to the data storage device by using metadata and a lock provided by the client. Burns is directed to a backup schema that allows copies of files to be available read-only while the original copy of the file is being updated. It would not be obvious to combine Yasue and Burns because there is no teaching or suggestion in either to provide a method of direct access to a data storage device for data in a file for which metadata is provided along with a lock for such data. Nor would the combination of Yasue and Burn yield Applicants claimed invention.

Applicants respectfully assert that the obviousness rejection of Applicants' now amended and pending Claims 50, 53, 54, 61, 64, and 65 is unwarranted and removal of this rejection is hereby requested.

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The Examiner has rejected Claims 51, 52, 55-60, 62, 63, and 66 under 35 USC 103(a) for obviousness over Yasue in view of Burns and further in view of US Patent 6,032,216 to Schmuck et al. (Schmuck). Applicants' Claims 51, 62 and 66 have been canceled. Pending Claims 52, 55-60, and 63 all inherit limitations from respective amended Claims 50 and 61. Yasue and Burns are thus quite different from Applicants' claimed invention for the reasons discussed above. Schmuck is directed to a parallel filed system with a method using tokens for access to metadata. This is quite different from Applicants' invention wherein locks and metadata are provided related to data that comprises at least a portion of a file and for which can be directly accessed on a data storage device as is specified in all of the claims rejected for obviousness over Yasue in view of Burns and further in view of Schmuck. There is no teaching or suggestion in any of the above-referenced patent references alone or in combination of Applicants' claimed invention in pending Claims 52, 55-60, and 63, nor would the combination yield Applicants' claimed invention.

Applicants respectfully assert that the obviousness rejection of Applicants' now amended and pending Claims 52, 55-60, and 63 is unwarranted and removal of this rejection is hereby requested.

In view of the foregoing, the Applicants believe that the application is in condition for allowance and respectfully request favorable reconsideration.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at (508) 293-6985.

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Please charge all fees occasioned by this submission to Deposit Account No. 05-0889.

Respectfully submitted,

Dated: \_\_\_\_\_

*May 19, 2005*



Robert Kevin Perkins, Esq. (Reg. No. 36,634)  
Attorney for Applicants  
EMC Corporation  
Office of General Counsel  
176 South Street  
Hopkinton, MA 01748  
Telephone: (508) 293-6985  
Facsimile: (508) 293-7189